BORA LASKIN LAW LIBRARY
3 1761 03324 5291

CRIMINAL PROSECUTIONS

Policy issues, miniserial responsibility and the exercise of discretionary powers

1 -1987
1-38

Professor J. J. Edwards

Storage

LAW LIBRARY

SEP 17 1986

FACULTY OF LAW

FACULTY OF LAW LIBRARY
UNIVERSITY OF TORONTO

CRIMINAL PROSECUTIONS

Policy issues, miniserial responsibility and the exercise of discretionary powers

1986-1987

Professor J.Ll.J. Edwards

Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

https://archive.org/details/criminalprosecut00edwa_0

CRIMINAL PROSECUTIONS

1986-1987

Professor J.Ll.J. Edwards

SEMINAR I: THE ROLE AND FUNCTIONS OF THE ATTORNEY GENERAL

Department of Justice Act, R.S.C. 1970, s. J-2 2

Department of Justice Act, R.S.O. c. 116.....3

Official Report, Ontario Legislature, Nov. 7, 1977, pp. 1595-1599 (speech of Hon R. McMurtry, A.G. of Ontario).....4

SEMINAR II: THE ROLE AND FUNCTIONS OF THE MINISTER OF JUSTICE

Reorganization of the Government of Ontario Act, S.O. 1972, c. 1 part iv.....8

Provincial Courts Act, R.S.O. 1970, c. 369.....9

Remarks of Gordon F. Gregory, Q.C., Deputy Minister of Justice of New Brunswick respecting police power and the role of the Provincial Minister of Justice, (1979) 27 Chitty's L.J13.....14

Mewett: Report on the Office and Function of Justices of the Peace in Ontario (Toronto : 1981).....-27

SEMINAR III: ACCOUNTABILITY OF THE ATTORNEY GENERAL TO THE COURTS OR TO PARLIAMENT

Edwards: The Law Officers of the Crown (1964) pp. 243-61.....42

Silkin: "The Functions and Position of the Attorney General in the United Kingdom" (1978), 59 The Parliamentarian 149.....48

The Law Reform Commission of Canada: Control of the Process(1975).....54

Edwards, "The Attorney General and the Charter of Rights", Symposium on Charter Litigation, (Toronto : 1986).....67

SEMINAR IV: THE ROLE AND FUNCTIONS OF THE SOLICITOR GENERAL

Ministry of the Solicitor General Act, S.O. 1972.c.2.....88

Department of the Solicitor General Act, S.O. 1972, c.2.....89

Police Act, R.S.O. 1980, c.381.....90

Edwards, "Penal Reform and the Machinery of Criminal Justice in Canada, (1965-66) 8 Crim.L.Q. 408.....91

Report of the McDonald Commission into RCMP activities vol.2 pp.856-78, 1005-1016.....102

Edwards, "The Canadian Security Intelligence Act 1984 - a Canadian Appraisal", (1985) Oxford Journal of Legal Studies 143.....122

House of Commons Justice and Legal affairs Committee, 1:53-55, 16:9-13, 28:5-6.....128

H.C. Debates, Deb. #51-2265-6, 33rd session 130

Seminar V: The Role and Function of a Director of Public Prosecutions

County Crown Attorney's Act, 1859, Statutes of U.C. c. 106....133

The Crown Attorneys Act, R.S.O. 1980, c. 107.....135

Ontario Law Reform Commission; Report on the Administration of Ontario Courts (1973) Part II, Ch. 2, 82-94.....139

Bull: "The Career Prosecutor of Canada" (1962) 53 Jo of Crim Law, Criminology and Police Science 89.....157

Ontario Legislature, March 17, 1978 (Speech of the Hon. R. McMurtry, Attorney General of Ontario).....152

House of Commons, March 17, 1978, pp.3881-3 (Speech of the Hon. R. Basford, Attorney General of Canada).....161

Edwards, The Attorney-General, Politics and the Public Interest, pp.37-52.....163

Director of Public Prosecutions Act, Victoria, 1982, ss.5, 9-11,14.....162

Director of Public Prosecutions Act, Australia 1983, ss.7-11,20,22.....173

Australian Senate Official Reports, Nov. 10, 16, 1983.....175

SEMINAR VI: POLITICS AND THE INDEPENDENCE OF THE LAW OFFICERS

Edwards: The Law Officers of the Crown, Ch.11.....179

H.C. Debates, Vol. 110, pp. 1139-1143, 1147-1150, 1191 (especially remarks by Prime Minister Pearson).....191

Ontario Legislature Debates, Deb# 23, 1978 (re Francis Fox case statement by Attorney General of Ontario).....197

H.R. (Australia) Debates, Sept 6, 1977, pp. 721-731 (re Ellicott's resignation).....199

Edwards, "The integrity of criminal prosecutions - Watergate echoes beyond the shores of the United States" in Reshaping the Criminal Law (1978) Sweet and Maxwell, 364-390.....206

SEMINAR VII: PROSECUTORIAL DISCRETION AND THE USE OF ADMINISTRATIVE GUIDELINES

A. The Elements Involved in the Decision to Prosecute.

"The Attorney-General's Prosecution Criteria", 1983 Public Law 165.....220

A. Sanders, "Prosecution Decisions and the Attorney-General's Guidelines" (1985) Crim. L. Rev. 4.....222

B: The Roles of the Attorney-General, the Crown Prosecutor and the Police in the Decision to Prosecute.

S. Uglow, "Independent Prosecutions", 11 Jo. of Law & Society 233.....231

S. Silkin, "The Prosecution Process", 1984 Public Law 6.....239

Report of the Royal Commission on Criminal Procedure (1981,Cmnd.8092) pp.133-136.....243

C. Prosecutorial Guidelines, Directives and the Independence of Crown Prosecutors.

Edwards, The Attorney-General, Politics and the Public Interest, pp. 405-406.....246

Alberta:
Extracts from the Report of the Irving Committee on the Administration of Justice in Alberta. pp.5-10, 16-29, 30-41, 43-48.....247

Ontario:
Edwards, The Attorney-General, Politics and the Public Interest, pp.119-131.....265

England and Wales:
"Criteria for Prosecution" (1983) 9 Commonwealth Law Bulletin 607.....266

Australia:
"Guidelines for Prosecution of Federal Offences" (1983) 9 Commonwealth Law Bulletin 587-595.....268

Seminar VIII: Private Prosecutions and the Attorney General's Power to Stay Proceedings

Edwards: The Law Officers of the Crown, pp. 227-37, 398-401..274

Kaufman: "The role of the private prosecutor: a critical analysis of the complainant's position in criminal cases: 1960 McGill L.J. 102.....281

Criminal Code, ss. 508, 732.1 288

Ontario Provincial Offences Act, R.S.O. 1980 c.400, s.33.....288

Turner v. D.P.P. (1978) 68 Cr App R 70.....289

Regina v. Dowson (1984) 7 CCC (3d) 527.....293

Re Johnson and Inglis (1980) 52 C.C.C. (2d) 385.....299

Harrigan and Graham (1976) 33 C.R.N.S. 60.....307

Wool v. The Queen, (1981) 28 Crim L.Q. 162.....314

Seminar IX: The Role and Functions of the Police and Accountability to Parliament and Legislatures

Police Act, RSO 1980, c.381.....323

Hogarth, "Police Accountability" in The Maintenance of Law and Order in Society (1982), pp.111-131.....329

Philip C. Stenning "Legal Aspects of the status and Political Accountability of the Police in Canada" (1983) pp. 361-395.....341

Williams: "Prosecution, Discretion and the Accountability of the Police" in Crime, Criminology and Public Policy (ed. Hood, 1966) 161-95.....363

RCMP Act, RSC 1970, c.R-9.....379

Philip C. Stenning "Legal Aspects of the status and Political Accountability of the Police in Canada" (1983) pp. 252-279.....381